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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES
BY ______

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

RICHARD REHHAUT,

Plaintiff,

v.

UNIVERSITY OF CALIFORNIA LOS ANGELES, and DOES 1 through 10, inclusive

Defendants.

Case No.: CV08-8388 DSF AJWx

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF FOR VIOLATIONS OF: AMERICANS WITH DISABILITIES ACT OF 1990; UNRUH CIVIL RIGHTS ACT; CALIFORNIA DISABLED PERSONS ACT

DEMAND FOR JURY

Plaintiff RICHARD REHHAUT complains of Defendants UNIVERSITY OF CALIFORNIA LOS ANGELES, and DOES 1 through 10, inclusive, (hereinafter referred to as "Defendants") and alleges as follows:

PARTIES:

1. Plaintiff is a California resident with physical disabilities. He is a T-3/T-4 paraplegic who requires a wheelchair for mobility.

2. Defendant is the University of California Los Angeles, hereinafter "UCLA", a university owned and operated by the State of California, a governmental entity, which

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has an indoor sports arena, known as Pauley Pavilion, hereinafter "ARENA", located at 555 Westwood Plaza, Los Angeles, California.

3. Plaintiff does not know the true names of Defendants, their business capacities, their ownership connection to the property and business, or their relative responsibilities in causing the access violations herein complained of, and alleges a joint venture and common enterprise by all such Defendants. Plaintiff is informed and believes that each of the Defendants herein, including DOES 1 through 10, inclusive, is responsible in some capacity for the events herein alleged, or is a necessary party for obtaining appropriate relief. Plaintiff will seek leave to amend when the true names, capacities, connections, and responsibilities of the Defendants and DOES 1 through 10, inclusive, are ascertained.

4. This case arises out of Defendants' failure to provide persons with disabilities the minimum legally required access; and failure to amend or introduce policies to accommodate persons with disabilities, at the ARENA, which are facilities owned, operated, controlled and/or maintained by UCLA, a governmental and public entity.

5. The ARENA is characterized by architectural barriers including, but not limited to, a lack of a clear line of sight over standing spectators, a failure to maintain accessible restrooms, and a lack of sufficient numbers of properly configured van accessible and other designated disabled accessible places.

6. Defendants have denied equal access to Plaintiff based solely on his mobility disabilities in that Defendants have knowingly and intentionally refused to comply with the requirements of federal and state law regarding access to public facilities.

JURISDICTION:

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, *et seq*.

8. Pursuant to pendant jurisdiction, an attendant and related cause of action, arising from the same nucleus of operative facts and arising out of the same transactions, is also brought under California's Unruh Civil Rights Act, and the California Disabled Persons Act, which acts expressly incorporate the Americans with Disabilities Act.

VENUE:

9. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is founded on the fact that the real property which is the subject of this action is located in this district and that Plaintiff's cause of action arose in this district.

FACTUAL ALLEGATIONS:

10. UCLA is a governmental entity, with its facilities being places of public accommodation.

11. The Plaintiff regularly has attended sporting events at the ARENA for more than 40 years and been a seasons' ticket holder for more than 15 years, including November 3, 2008.

12. During Plaintiff's regular visits to the ARENA, he has encountered various violations of the Americans with Disabilities Act Accessibility Guidelines ("ADAAG") and Title 24 of the California Code of Regulations, including, but not limited to, a lack of a clear line of sight over standing spectators, a failure to maintain accessible restrooms, and a lack of sufficient numbers of properly configured van accessible and other designated disabled accessible places.

13. Naturally, Plaintiff REHHAUT was and is frustrated, angry and/or vexed as a result of encountering these conditions, these violations of his civil rights, and the lack of safe, convenient and accessible public facilities. Although these injuries are modest in scope and did not result in any loss of wages or economic damage or medical care or attention, the continued violation of the Plaintiff's civil rights by these Defendants and the highly unpleasant emotional distress caused by such unlawful treatment is attributable to the actions or inactions of the Defendants and Plaintiff seeks redress from these Defendants for such injury.

14. Plaintiff would like to be able to attend sporting events in the ARENA on a "full and equal" basis, but until the ARENA is brought into compliance with the provisions of the Americans with Disabilities Act Accessibility Guidelines and state accessibility law as pled herein, Plaintiff is unable to do so.

I. **FIRST CAUSE OF ACTION:** VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990 (On behalf of Plaintiff and Against All Defendants) (42 U.S.C. 12101 et seq.)

15. Plaintiff repleads and incorporates by reference, as if fully set forth again herein, the allegations contained in all prior paragraphs of this complaint.

16. Defendants' ARENA is a public entity, which provides services to the public, and a place of public accommodation. As such, the Defendants are required to (1) ensure that all construction, alteration, or modification is barrier free and complies with the Americans with Disabilities Act Accessibility Guidelines ("ADAAG") and Title 24 of the California Code of Regulations (aka "California Building Code"); and/or (2) remove all existing barriers where such removal is "readily achievable." The Defendants have failed to meet these obligations. The existence of readily achievably removed barriers and barriers in violation of the ADAAG and/or California Building Code, including, but not limited to, a lack of a clear line of sight over standing spectators, a failure to maintain accessible restrooms, and a lack of sufficient numbers of properly configured van accessible and other designated disabled accessible places, is unlawful and has resulted in the Defendants' failure to provide full and equal accommodations, advantages, facilities, privileges and/or services to the Plaintiff.

17. Defendants' acts and omissions alleged herein are in violation of the Americans with Disabilities Act of 1990, 42 U.S.C. sections 12101, *et. seq.*, and the regulations promulgated thereunder, 28 C.F.R. Part 35, *et. seq.*

18. Defendants' conduct constitutes ongoing and continuous violations of the ADA and, unless restrained from doing so, Defendants will continue to violate such law. This conduct, unless enjoined, will continue to inflict injuries for which Plaintiffs have no adequate remedy at law. Consequently, Plaintiffs are entitled to injunctive relief pursuant to section 308 of the ADA (42 U.S.C. 12188).

19. Wherefore, Plaintiff prays for relief as hereinafter stated.

II. SECOND CAUSE OF ACTION (Violation of The Unruh Civil Rights Act, On behalf of Plaintiff and Against All Defendants) (Cal Civ § 51 et seq.)

20. Plaintiff repleads and incorporates by reference as if fully set forth again herein, the allegations contained in all prior paragraphs of this complaint and incorporate them herein as if separately repled.

21. The actions of the Defendants have violated and continue to violate the Unruh Civil Rights Act, Cal. Civ. Code sections 51 *et. seq.*, in that physically disabled persons are either not provided services and facilities that are provided to other persons, or are provided services and facilities that are not equal to, and are inferior to, the services provided to persons who are not physically disabled.

22. As of January 1, 1993 and thereafter, Defendants have committed additional violations of the Unruh Civil Rights Act in that the conduct of alleged herein constitutes violations of various provisions of the ADA, 42 U.S.C. sections 12101 *et. seq.*, as set forth above, includes Defendants' failure to remove architectural barriers which were readily achievable to remove.

23. The actions of the Defendants were and are in violation of the Unruh Civil Rights Act, Cal.Civ.Code sections 51 *et. seq.* and, therefore, Plaintiff is entitled to injunctive relief. In addition, Defendants are liable to the Plaintiff for each and every offense for actual damages incurred but in no case less than $4,000 per offense. Plaintiff is also entitled to attorneys' fees.

III. THIRD CAUSE OF ACTION: VIOLATION OF THE CALIFORNIA DISABLED PERSONS ACT (On behalf of Plaintiff and Against All Defendants) (Cal Civ § 54-54.8)

24. Plaintiff repleads and incorporates by reference as if fully set forth again herein, the allegations contained in all prior paragraphs of this complaint and incorporate them herein as if separately repled.

25. The actions of the Defendants have violated and continue to violate the California Disabled Persons Act, Cal. Civ. Code sections 54 *et. seq.*, in that physically disabled persons are either not provided services and facilities that are provided to other persons, or are provided services and facilities that are not equal to, and are inferior to, the services provided to persons who are not physically disabled, in that they have failed to make reasonable modifications in policies, practices, or procedures where such modifications as are necessary to afford a person with a disability proper access to and enjoyment of the goods, services, facilities, privileges, advantages, or accommodations offered by Defendants' ARENA, specifically the fact that the ARENA has a lack of a clear line of sight over standing spectators, a failure to maintain accessible restrooms, and a lack of sufficient numbers of properly configured van accessible and other designated disabled accessible places. Defendants' actions are unlawful and have resulted in the Defendants' failure to provide full and equal accommodations, advantages, facilities, privileges and/or services to the Plaintiff.

Wherefore, Plaintiff prays that this court grant relief and damages as hereinafter stated:

RELIEF REQUESTED:

Plaintiff prays that this court award damages and provide relief as follows:

1. For injunctive relief, compelling Defendants to comply with the Unruh Civil Rights Act. **Note**: the Plaintiff is not invoking section 55 of the California Civil Code and is not seeking injunctive relief under that section.

2. Damages under the Unruh Civil Rights Act and/or the California Disabled Persons Act. **Note:** A Defendant cannot be held liable for damages under both the Unruh Civil Rights Act and the California Disabled Persons Act and the Plaintiff will make an election at trial depending upon the evidence amassed.

3. Reasonable attorneys' fees, litigation expenses and costs of suit, pursuant to

42 U.S.C. § 12205; Cal. Civ. Code §§ 52 and 54.3 and Cal. Civ. Proc. § 1021.5.

Dated: December 11, 2008 CENTER FOR DISABILITY ACCESS

By:__/s/ Mark D. Potter______________________
MARK D. POTTER
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury for all claims for which a jury is permitted.

Dated: December 11, 2008 CENTER FOR DISABILITY ACCESS

By:__/s/ Mark D. Potter______________________
MARK D. POTTER
Attorneys for Plaintiff